

Court No. - 12

Case :- APPLICATION U/S 482 No. - 11501 of 2023

Applicant :- Vipin Kumar Dubey Alias Vikky

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Sectt. Lko And Another

Counsel for Applicant :- Rajeev Mishra, Mool Shankar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh, J.

1. Heard learned counsel for the applicant as well as learned A.G.A. for the State and perused the record.

2. The present application has been filed for quashing the impugned order dated 13.10.2023 passed by learned Sessions Judge, Ayodhya in S.T. No. 436 of 2008 and proceedings of aforesaid sessions trial.

3. Learned counsel for the applicant submits that applicant has been falsely implicated in the present case. He further submits that juvenility was claimed by applicant before Juvenile Justice Board but his application was rejected on 04.09.2008 (the date is not legible from the copy of order which is annexed at page 45, 46 & 47). He further submits that the aforesaid order was not challenged by applicant and trial was proceeded by trial court registering it as S.T. No. 436 of 2008 and now, the case is at the stage of final hearing after conclusion of the prosecution evidence as well as defense evidence. He further submits that an appeal was filed by applicant before learned District & Sessions Judge, Faizabad/Ayodhya against the order dated 04.09.2008 passed by Juvenile Justice Board and certified copy of the order dated 04.09.2008 was asked. He further submits that record related to the order dated 04.09.2008 is not available in the office of Juvenile Justice Board, thereafter, one application was moved by the applicant before learned Sessions Judge which was registered as application No. 172-B, the same was moved with a prayer that trial of the applicant may be kept in abeyance till obtaining the certified copy of the order dated 04.09.2008 passed by Juvenile Justice Board; the aforesaid application was rejected by learned trial court with the observation that trial of the co-accused person was already concluded and the judgement was passed on 30.01.2023.

4. Further submission of learned counsel for the applicants is that applicant was not aware that his application of juvenility

was rejected by learned trial court on 04.09.2008 as the same was moved by his father who has died and date of death of whom could not be mentioned in the pleading. It is, thus, submitted that indulgence of this Court is required.

5. Learned A.G.A. vehemently opposes the prayer of applicants and submits that the order dated 04.09.2008, which is annexed as Annexure No. 4, hardly reveals that all the relevant facts were considered by the Investigating Officer, later, juvenile appeared along with 'kutumb' register, high school certificate and voter list of panchayat election 2005. It was categorically observed that the mother of the applicant was examined before Juvenile Justice Board and she categorically stated that she has 04 children, out of whom, Vipin is her second child, her one daughter is elder then Vipin whose date of birth is 24.11.1988, she is three years order then Vipin; his radiological age was also determined by Medical Board, in which, he was found 22 years old. He also submits that the application of juvenility was rejected by a reasoned and speaking order, therefore, learned trial court has rightly rejected the said application.

6. Considering the submissions of learned counsel for the applicant, learned A.G.A. and going through the contents of application as well as other relevant documents; it is evident that order dated 04.09.2008, annexed as Annexure No.4, passed by Juvenile Justice Board clearly reveals that the mother of the applicant was examined before trial court and she stated that applicant is her second child and her first child is three years older then him, the date of birth of her first child is 24.11.1988. In the radiological examination, age of applicant was found 22 years and as per the 'kutumb' register, he was major and his name was also found in the voter list of the panchayat election 2005. As there was contradiction in the documents related to the age of the applicant, therefore, learned Juvenile Justice Board has rightly send the case of applicant for age determination by way of ossification test, in which, he was found 22 years old.

7. In view of above facts and circumstances, this Court is of the view that the present application U/s 482 Cr.P.C. is misconceived and, accordingly, stands **dismissed**.

8. Office is directed to communicate this order to trial court, forthwith.

9. Trial court is also directed to proceed and conclude the trial in accordance with law, expeditiously.

Order Date :- 24.11.2023

Arpan